

1 Mark E. Merin (State Bar No. 043849)
Cathleen A. Williams (State Bar No. 068029)
2 LAW OFFICES OF MARK E. MERIN
2001 P Street, Suite 100
3 Sacramento, California 95814
Telephone: (916) 443-6911
4 Facsimile: (916) 447-8336

5 Andrew C. Schwartz (State Bar No. 64578)
CASPER, MEADOWS, SCHWARTZ & COOK
6 A Professional Corporation
California Plaza
7 2121 North California Blvd., Suite 1020
Walnut Creek, California 94596
8 Telephone: (925) 947-1147
Facsimile: (925) 947-1131

9 Attorneys for Plaintiffs

10 MICHAEL P. MURPHY, COUNTY COUNSEL, SBN 83887
11 Carol L. Woodward, Deputy, SBN 084197
Hall of Justice and Records
12 400 County Center, 6th Floor
Redwood City, CA 94063
13 Telephone: (650) 363-4746
Facsimile: (650) 363-4034

14 PORTER SCOTT
15 Terence J. Cassidy, SBN 099180
350 University Avenue, Suite 200
16 Sacramento, CA 95825
Telephone: (916) 929-1481
17 Facsimile: (916) 927-3706

18 Attorneys for Defendants

19
20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA
22

23 SHANNON GALLAGHER, ROBERTA
BAUCCIO, GRACE CARLAND, and all
24 others similarly situated,
Plaintiffs,

25 vs.

26 COUNTY OF SAN MATEO, SAN
27 MATEO COUNTY SHERIFF'S
DEPARTMENT; SAN MATEO
28 COUNTY SHERIFF DON HORSLEY, in

Case No. C 04 0448 SBA

**ORDER AND JUDGMENT OF
DISMISSAL**

DATE: November 6, 2007

TIME: 1:00 p.m.

CTRM: 3

JUDGE: Hon. Sandra Brown Armstrong

1 his individual and official capacity; SAN
2 MATEO COUNTY SHERIFF'S
3 DEPUTIES DOES 1 THROUGH 100; and
4 DOES 1 THROUGH 150, INCLUSIVE, et
5 al.

6 Defendants.
7 _____/

8 This matter came on regularly for a Fairness Hearing on November 6, 2007, in
9 Courtroom 3 of the above-entitled Court, the Honorable Sandra Brown Armstrong
10 presiding. Plaintiff Class was represented by Class Counsel Mark E. Merin of the Law
11 Office of Mark E. Merin and Andrew C. Schwartz of the law firm Casper, Meadows,
12 Schwartz & Cook; Defendants were represented by Terence J. Cassidy of the law firm of
13 Porter Scott.

14 After considering the submissions of the parties, including the Stipulated Motion for
15 Preliminary Approval of Provisional Settlement Class and Settlement of Class Action,
16 together with the extensive exhibits attached thereto; the unopposed Application of Plaintiffs'
17 Class Counsel for Award of Attorney Fees and Costs; the Joint Submission of the Parties in
18 Support of Final Approval of the Stipulation of Settlement; the arguments of counsel; the
19 submission from the Class Claims Administrator, and for all of the reasons and findings set
20 forth on the record, (a true and correct copy of the reporter's transcript of the hearing is
21 attached hereto and incorporated by reference as though fully set forth herein):

22 IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

23 1. On April 2, 2007, this Court entered its order preliminarily approving
24 settlement of the above-captioned class action. Since the entry of the Court's Preliminary
25 Order, in accordance with the Stipulation of Settlement as proved to the satisfaction of the
26 Court, the requisite notice of the Settlement, with opt-out and objection information, was
27 published in the Daily News Group on May 10 and 12, 2007, and in the San Francisco
28 Chronicle on May 3, 4, 9, 11, 16, and 18, 2007. The notice of the Settlement and approved
claim forms, were posted by First Class Mail to the last-known address of each person in the
Settlement Class. Both the published notice and the mailed notice specified that Claim

1 Forms had to be delivered to the Claims Administrator, postmarked no later than October 5,
2 2007. The Court finds that pursuant to and in compliance with F.R.Civ.P. 23 due and
3 adequate notice was directed to all class members.

4 2. Both the published and mailed notices specified that any person who chose to
5 object to the Settlement, either personally or through counsel, and desired to appear at the
6 Fairness Hearing, was required to submit a Notice of Intention to appear, together with
7 written arguments in support of any objection, by October 5, 2007. No written objections
8 were received by counsel or the Court. Furthermore, although opportunity was given by the
9 Court to voice objections at the time of the Fairness Hearing, no objections were stated by
10 any member of the Class or representative of any such Class Member.

11 3. The Court is satisfied from all of the memoranda of law, declarations, and
12 exhibits submitted to the Court, that the Stipulation of Settlement is, and the Court now finds,
13 that the Stipulation of Settlement is fair and finally approves it as such. The Stipulation of
14 Settlement is incorporated herein by this reference as if set out in full.

15 4. The "Settlement Class" means and includes all of those persons who are
16 members of the following defined class and/or sub-classes who were booked at San Mateo
17 County Maguire Correctional Facility and strip searched prior to arraignment.

18 a. For the federal claim ("Class One"):

19 All women who, from February 3, 2002 to December 2, 2003, were arrested
20 on any charge (including felonies) not involving weapons, controlled
21 substances, or violence, and not involving a violation of parole or a violation
22 of probation (where consent to search is a condition of such probation), and
23 who were subjected to a uniform and indiscriminate (blanket) strip/visual body
24 cavity search by defendants before arraignment at the San Mateo County Jail
25 without any individualized reasonable suspicions that they were concealing
26 contraband. This class also includes all female arrestees who were subjected
27 to subsequent blanket strip search before arraignment after the initial
28 strip/visual body cavity search without any reasonable individualized suspicion

1 that they had subsequently acquired and hidden contraband on their persons.

2 b. For the state law claim ("Class Two"):

3 All female arrestees who, from June 12, 2003 to December 2, 2003,
4 were arrested on an infraction or misdemeanor charge and brought to
5 the San Mateo County Jail and who were subjected to a uniform and
6 indiscriminate (blanket) strip/visual body cavity search before
7 arraignment without written supervisorial authorization, as required
8 under California Penal Code § 4030(f).

9 5. There are no individuals who submitted timely requests to the Court to opt out
10 of the Stipulation of Settlement. Therefore, all claims and complaints of the named
11 representative Plaintiffs, together with all persons in the Settlement Class, are now dismissed
12 with prejudice as to all of the Released Persons defined to include all Defendants, their
13 predecessors, successors, and/or assigns, together with past, present and future officials,
14 employees, representatives, attorneys and/or agents of the County of San Mateo. Claims and
15 complaints of such persons are now forever barred, and all Settlement Class Members are
16 enjoined from asserting against any released persons any and all claims which the Settlement
17 Class Members had, have, or may have in the future arising out of the facts alleged in the
18 complaints.

19 6. Each Released Person is released from the claims which any Settlement Class
20 Member has had or may in the future have against any such Released Persons arising out of
21 the facts in the complaints.

22 7. This Court explicitly finds that the Stipulation of Settlement, which is now
23 made final by this Judgment, was entered into in good faith, is reasonable, fair, and adequate,
24 and is in the best interest of the Class. The Court expressly approves payment to class
25 counsel, Mark E. Merin of the Law Office of Mark E. Merin and Andrew C. Schwartz of the
26 law firm Casper, Meadows, Schwartz & Cook, the amount of Six Hundred Thousand Dollars
27 (\$600,000.00), as and for attorney fees, together with costs, for the representation of
28 Settlement Class Members herein, to be paid as provided in the Stipulation of Settlement.

1 8. The Court further explicitly approves payment from the payment fund a total
2 of One Hundred Twenty Thousand Dollars (\$120,000.00) to be divided among the
3 representative Plaintiffs, as specified in the Stipulation of Settlement. The Court finds the
4 amount is fair and adequate in view of the damages suffered by the representative Plaintiffs
5 and the efforts they expended in litigating this case in the almost four years it has been
6 pending.

7 9. Claims have been submitted and, in accordance with the claims processing
8 procedure specified in the Stipulation of Settlement, will be reviewed, valued, and paid by
9 the Claims Administrator from funds provided by the defendants as soon as practicable
10 following the effective date of this Judgment, meaning the date it is entered and becomes
11 final. Such Judgment will be deemed final only upon the expiration of the time to appeal or,
12 if a notice of appeal is filed in this matter, upon exhaustion of all appeals and petitions for
13 writ of certiorari. The Court also approves of the payment of up to one hundred and fifty
14 thousand dollars and no cents (\$150,000.00) to Gilardi and Company, LLC for services
15 rendered as Claims Administrator.

16 10. The parties have consented to the continuing jurisdiction of a Magistrate Judge
17 over the parties in this action, including Defendants and all Settlement Class Members, to
18 administer, supervise, construe and enforce the Settlement in accordance with the terms for
19 the mutual benefit of all of the parties.

20 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the complaint in
21 this action be dismissed with prejudice and that judgment be and the same hereby is entered
22 pursuant to the terms of this Order.

23
24 Dated: 11/29/07



25
26 HON. SAUNDRA BROWN ARMSTRONG
27 Judge, United States District Court
28 Northern District of California

1 IN THE NORTHERN DISTRICT OF CALIFORNIA
2 OAKLAND, CALIFORNIA; DEPT 3; SAUNDRA ARMSTRONG, JUDGE
3 SHANNON GALLAGHER,) C-04-448 SBA
4 PLAINTIFF,)
5 V.) TUESDAY 11/06/2007
6 COUNTY OF SAN MATEO,)
7 DEFENDANT.)
8 _____)

ORIGINAL
FILED
NOV - 7 2007
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

9 REPORTER'S TRANSCRIPT OF PROCEEDINGS

10 APPEARANCES:

11 FOR THE PLAINTIFF:

12 LAW OFFICE OF MARK E. MERIN
13 2001 P STREET, SUITE 100
14 SACRAMENTO, CALIFORNIA 95814
15 TEL (916) 443-6911 FAX (916) 447-8336 MARK@MARKMERIN.COM
16 BY: **MARK E. MERIN, ATTORNEY AT LAW**
17 LAW OFFICES OF CASPER, MEADOWS, SCHWARTZ & COOK
18 A PROFESSIONAL CORPORATION
19 2121 N. CALIFORNIA BLVD., SITE 1020
20 WALNUT CREEK, CALIFORNIA 94596
21 TEL (925) 947-1147 FAX (925) 946-1131 SCHWARTZ@CMSLAW.COM
22 BY: **ANDREW SCHWARTZ, ATTORNEY AT LAW**

18 FOR THE DEFENDANT:

19 PORTER SCOTT ATTORNEYS
20 350 UNIVERSITY AVENUE, SUITE 200
21 SACRAMENTO, CALIFORNIA 95825
22 TEL (916) 929-1481 FAX (916) 927-3706
23 TCASSIDY@PORTERSMOTT.COM, WWW.PORTERSMOTT.COM
24 BY: **TERENCE J. CASSIDY, ATTORNEY AT LAW**

25 REPORTED BY: STARR A. WILSON, CSR 2462

OAKLAND, CALIFORNIA; TUESDAY, NOVEMBER 6, 2007; 1:08 P.M.,
DEPARTMENT THREE; SAUNDRA BROWN ARMSTRONG, JUDGE

-000-

THE CLERK: ALL RISE. THIS COURT IS NOW IN
SESSION. THE HONORABLE SAUNDRA BROWN ARMSTRONG PRESIDING.
PLEASE BE SEATED.

CALLING CIVIL 04-0448, SHANNON GALLAGHER VERSUS
COUNTY OF SAN MATEO.

COUNSEL, WILL YOU PLEASE COME FORWARD AND STATE
YOUR APPEARANCES FOR THE COURT?

MR. MERIN: GOOD AFTERNOON, YOUR HONOR. MARK
MERIN.

THE COURT: GOOD AFTERNOON.

MR. SCHWARTZ: ANDREW SCHWARTZ, YOUR HONOR.

THE COURT: GOOD AFTERNOON.

MR. CASSIDY: GOOD AFTERNOON, YOUR HONOR. TERENCE
CASSIDY ON BEHALF OF DEFENDANTS.

THE COURT: GOOD AFTERNOON.

OKAY. THIS, UM, MATTER IS ON THE COURT'S CALENDAR
FOR THE PARTIES' JOINT SUBMISSION AND SUPPORT OF FINAL
APPROVAL OF THE SETTLEMENT, THE STIPULATED SETTLEMENT, AND
CLASS COUNSEL'S STIPULATION FOR APPROVAL OF STIPULATED
ATTORNEYS' FEES AND REIMBURSEMENT OF COSTS.

FOR THE RECORD, I HAVE RECEIVED, READ, AND
CONSIDERED THE FOLLOWING DOCUMENTS IN CONNECTION WITH THIS

1 MOTION -- THESE MOTIONS: THE COURT'S APRIL 3 ORDER
2 PRELIMINARILY APPROVING THE SETTLEMENT; THE PARTIES' JOINT
3 SUBMISSION AND SUPPORT OF THE FINAL APPROVAL OF THE
4 STIPULATED SETTLEMENT FILED ON OCTOBER 19, 2007; CLASS
5 COUNSEL'S APPLICATION FOR APPROVAL OF STIPULATED ATTORNEYS'
6 FEES AND REIMBURSEMENT OF COSTS FILED ON OCTOBER 10, 2007,
7 WITH THE CORRECTED VERSION FILED ON OCTOBER 19, 2007; THE
8 DECLARATION OF RYANNE FITZGERALD IN SUPPORT OF THE
9 SETTLEMENT FILED ON OCTOBER 19, 2007; UM, THE DECLARATION OF
10 ANGELA SCHWARTZ FILED OCTOBER 10, 2007; THE DECLARATION OF
11 MARK E. MERIN FILED ON OCTOBER 10, 2007.

12 THOSE ARE DOCUMENTS THAT I HAVE RECEIVED, READ AND
13 CONSIDERED IN CONNECTION WITH THESE MOTIONS.

14 HAVE YOU BOTH RECEIVED COPIES OF WHAT THE COURT
15 HAS CONSIDERED?

16 MR. MERIN: YES, YOUR HONOR.

17 MR. SCHWARTZ: YES, YOUR HONOR.

18 MR. CASSIDY: YES, YOUR HONOR.

19 THE COURT: HAVE YOU FILED ANY DOCUMENTS THAT I
20 HAVE NOT INDICATED RECEIPT OF?

21 MR. MERIN: THE ONLY ONE IS THE E-FILED PROPOSED
22 ORDER AND JUDGMENT.

23 THE COURT: OH. OKAY. WELL, I DID RECEIVE THAT
24 AS WELL.

25 THANK YOU.

1 ANY OTHER DOCUMENTS?

2 MR. SCHWARTZ: NO. YOUR HONOR.

3 MR. CASSIDY: NO, I BELIEVE THAT'S ALL THE
4 DOCUMENTS THAT WERE SUBMITTED.

5 THE COURT: OKAY. WE'LL NOTE FOR THE RECORD THAT
6 NO OBJECTION TO THE SETTLEMENT WERE FILED BY THE
7 COURT-IMPOSED DEADLINE OF OCTOBER 5, 2007; IS THAT CORRECT?

8 MR. MERIN: YES, YOUR HONOR.

9 MR. CASSIDY: THAT'S CORRECT, YOUR HONOR.

10 THE COURT: AND I SEE THERE ARE A COUPLE OF PEOPLE
11 IN THE COURTROOM.

12 I SHOULD SAY IS THERE ANYONE HERE IN THE COURT WHO
13 HAS AN OBJECTION THAT DID NOT FILE A TIMELY WRITTEN
14 OBJECTION? IF SO, PLEASE STAND AND BE HEARD.

15 OKAY. I WILL INDICATE FOR THE RECORD THAT THERE
16 ARE ONLY TWO PEOPLE IN THE COURTROOM, AND NONE -- AND
17 NEITHER OF THEM STOOD IN RESPONSE TO THE COURT'S INVITATION.

18 SO BEFORE WE ENGAGE IN A SUBSTANTIVE DISCUSSION, I
19 WANT TO FIRST GIVE YOU MY INCLINATION.

20 MY INCLINATION IS TO APPROVE THE SETTLEMENT AND TO
21 APPROVE CLASS COUNSELS' REQUESTS FOR FEES AND COST.

22 I'M ALSO INCLINED TO INCLUDE A REQUEST OF AWARD OF
23 \$120,000 TO SHANNON GALLAGHER, ROBERTA BAUCCIO AND GRACE
24 CARLAND, AND COMPENSATION FOR SERVING AS CLASS
25 REPRESENTATIVES.

1 AFTER I HAVE GIVEN YOU ALL MY INCLINATIONS, I WILL
2 GIVE YOU A CHANCE TO EXPRESS YOUR COMMENTS AND CONCERNS IF
3 YOU HAVE ANY.

4 WITH RESPECT TO NOTICE, I'M INCLINED TO FIND THAT
5 NOTICE IN THIS CASE WAS ADEQUATE. RULE 23 REQUIRES THAT THE
6 COURT DIRECT THAT -- TO THE MEMBERS OF THE CLASS THE BEST
7 NOTICE PRACTICABLE UNDER THE CIRCUMSTANCES, INCLUDING
8 INDIVIDUAL NOTICE TO ALL MEMBERS WHO CAN BE IDENTIFIED
9 THROUGH REASONABLE EFFORT.

10 ON APRIL 2, 2007 THIS COURT APPROVED AS TO FORM
11 AND CONTENT, THE NOTICE OF CLASS SETTLEMENT AND THE PROOF OF
12 CLAIM AND RELEASE. PURSUANT TO THE COURT'S ORDER, THE
13 CLAIMS ADMINISTRATOR GILARDI & COMPANY, LLC, WAS RETAINED TO
14 SUPERVISE AND ADMINISTER THE NOTICE PROCEDURE.

15 THE NOTICE IN THIS MATTER MEETS THE CRITERIA SET
16 FORTH IN THE CASE IN OFFICERS FOR JUSTICE VERSUS CIVIL
17 SERVICE COMMISSION IN THE CITY AND COUNTY OF SAN FRANCISCO,
18 FOUND AT 688 FED 2ND 615, SPECIFICALLY AT PAGE 624.

19 THE CLASS CLAIM ADMINISTRATOR IS GILARDI &
20 COMPANY. THE CLAIMS ADMINISTRATOR OBTAINED THE DATABASE OF
21 LAST KNOWN ADDRESSES OF EACH OF THE MEMBERS OF THE CERTIFIED
22 CLASS OF PLAINTIFFS AND MAILED TO EACH CLAIMANT BY FIRST
23 CLASS MAIL A NOTICE AND CLAIM FORM.

24 A SAMPLE CLAIM FORM IS IN THE RECORD. THE CLAIM
25 FORM INCLUDES AN 800 NUMBER FOR FURTHER INFORMATION WITH

1 SPANISH AVAILABLE. AND A WEBSITE ADDRESS FOR CLAIMANTS TO
2 OBTAIN INFORMATION AND REVIEW THE RELEVANT DOCUMENTS.

3 THE PARTIES TOOK STEPS TO FIND UP-TO-DATE
4 ADDRESSES OF CLAIMANTS AND MAILED FURTHER NOTICES TO THOSE
5 ADDRESSES.

6 IN ADDITION, THE CLAIMS ADMINISTRATOR PUBLISHED
7 SUMMARY FORMS OF THE NOTICE IN THE DAILY -- IN THE DAILY
8 NEWS GROUP ON MAY 10, AND 17, 2007; IN THE SAN FRANCISCO
9 CHRONICLE ON MAY 3, 4, 9, 11, 16, AND 18.

10 CLAIMS HAVE BEEN RECEIVED FROM OVER 220 CLAIMANTS,
11 APPROXIMATELY 15 PERCENT OF THE ELIGIBLE CLASS.

12 IN LIGHT OF THE FOREGOING, THE COURT IS INCLINED
13 TO FIND THAT THE NOTICE OF A SETTLEMENT WAS ADEQUATELY
14 DISSEMINATED AND CLEARLY APPRIZED ANY PERSONS INCLINED TO
15 OBJECT TO FILE TIMELY OBJECTIONS IN ACCORDANCE WITH THE RULE
16 23.

17 WITH RESPECT TO THE FAIRNESS REASONABLENESS AND
18 ADEQUACY OF THE SETTLEMENT.

19 IN ASSESSING THE FAIRNESS, REASONABLENESS AND
20 ADEQUACY OF THE SETTLEMENT, THE COURT HAS EVALUATED,
21 CONSIDERED AND BALANCED THE FOLLOWING NONEXCLUSIVE FACTORS:
22 ONE, THE STRENGTH OF PLAINTIFFS' CASE; TWO, THE RISK,
23 EXPENSE, COMPLEXITY AND LACK OF DURATION OF FURTHER
24 LITIGATION; THIRD, THE AMOUNT OFFERED IN SETTLEMENT; FOURTH,
25 THE EXTENT OF DISCOVERY COMPLETED, AND THE STAGE OF THE

1 PROCEEDINGS; FIVE, THE EXPERIENCE AND VIEWS OF COUNSEL, AND;
2 SIX, THE REACTION OF CLASS MEMBERS TO THE PROPOSED
3 SETTLEMENT.

4 LISA. (CONFERENCE BETWEEN THE CLERK AND COURT NOT
5 REPORTED.)

6 BASED ON THE SUBMISSIONS AND REPRESENTATIONS OF
7 THE PARTIES, THE SETTLEMENT IS FAIR, ADEQUATE AND
8 REASONABLE.

9 FIRST, WITH RESPECT TO THE STRENGTH OF PLAINTIFFS'
10 CASE, THE PLAINTIFFS HAVE IDENTIFIED FEDERAL CASE LAW AND
11 STATE STATUTORY LAW SUPPORTING THEIR POSITION THAT THEY HAVE
12 A VIABLE CLAIM BASED ON BLANKET PREARRANGEMENTS STRIP
13 SEARCHES CONDUCTED WITHOUT INDIVIDUALIZED SUSPICION AND
14 LACKING CERTAIN PROCEDURAL SAFEGUARDS.

15 ON THE OTHER HAND, CLAIMS ASSERTING UNREASONABLE
16 SEARCHES UNDER THE FOURTH AMENDMENT REQUIRED CAREFUL
17 BALANCING OF THAT RIGHT AGAINST THE SECURITY AND SAFETY
18 CONCERNS OF THE CORRECTIONAL INSTITUTIONS. THUS, WHILE THE
19 PLAINTIFFS HAVE A STRONG CASE, THERE IS NO GUARANTEE THAT
20 JUDGMENT WOULD ULTIMATELY BE GRANTED IN THEIR FAVOR. A
21 SETTLEMENT IS ACCORDINGLY A RATIONAL COURSE FOR PLAINTIFFS.

22 THE AMOUNT OFFERED IN SETTLEMENT THE DEFENDANTS
23 HAVE AGREED TO PAY A TOTAL OF \$1,900,000 TO SETTLE ALL
24 CLAIMS OF THE CLASS MEMBERS' ATTORNEYS' FEES AND
25 ADMINISTRATIVE COSTS. OF THIS \$1,150,000 IS DESIGNATED FOR

1 CLAIMS FOR CLASS MEMBERS, \$600,000 FOR ATTORNEYS' FEES AND
2 COSTS INCURRED BY CLASS COUNSEL, AND UP TO \$150,000 TO BE
3 ALLOCATED TO THE ADMINISTRATION FUND TO COVER THE COST OF
4 CLAIMS ADMINISTRATION.

5 THE \$1,150,000 SETTLEMENT FOR THE CLASS PROVIDES
6 FOR COMPENSATION ALONG THREE TIERS: FACTORING IN THE NUMBER
7 OF STRIP SEARCHES; CIRCUMSTANCES SURROUNDING THE STRIP
8 SEARCHES; AND THE AMOUNT OF DOCUMENT AND PSYCHOLOGICAL HARM.

9 THE SETTLEMENT PROVIDES FOR THE APPOINTMENT OF A
10 CLAIMS ADMINISTRATOR TO DETERMINE THE APPROPRIATE TIER AN
11 INDIVIDUAL CLAIMANT FALLS INTO BASED UPON A NUMBER OF
12 CRITERIA LAID OUT IN THE CELEBRANT AGREEMENT.

13 EACH CLAIMANT WILL RECEIVE A MINIMUM OF \$1,250.
14 THE SETTLEMENT PROVIDES THAT THE THREE-NAMED PLAINTIFFS,
15 SHANNON GALLAGHER, ROBERTA BAUCCIO AND GRACE CARLAND, WILL
16 RECEIVE A PREMIUM PAYMENT OF \$120,000. THAT'S -- THAT
17 SETTLEMENT ALSO ALLOCATES \$600,000 FOR ATTORNEYS' FEES AND
18 COSTS AMOUNTING TO 31.6 PERCENT OF THE TOTAL SETTLEMENT.

19 IN ADDITION TO MONETARY COMPENSATION, THE
20 DEFENDANTS HAVE REVISED THE STRIP SEARCH POLICIES.

21 EXTENT OF DISCOVERY, THE PARTIES STATE THEY
22 ENGAGED IN EXTENSIVE DISCOVERY. THEY TELL OF EXCHANGING
23 DISCOVERY DOCUMENTS, PROPOUNDING AND RESPONDING TO
24 INTERROGATORIES AND CONDUCTING DEPOSITIONS OF POLICYMAKERS,
25 LINE OFFICERS, AS WELL AS THE PARTIES THEMSELVES.

1 COUNSEL FOR BOTH PARTIES AGREE THAT THE SETTLEMENT
2 IS FAIR AND ADEQUATE AND REASONABLE AND THAT IT SHOULD BE
3 APPROVED BY THE COURT.

4 THERE IS NO EVIDENCE FROM THIS COURT'S PERSPECTIVE
5 TO SUGGEST THAT THIS SETTLEMENT WAS NOT MADE IN GOOD FAITH
6 OR WAS A RESULT OF COLLUSION BETWEEN COUNSEL FOR THE
7 PARTIES.

8 THE PARTIES RELATE THAT ON DECEMBER 16, 2005 AND
9 ON APRIL 5, 2006 THEY CONDUCTED MEDIATION BEFORE MAGISTRATE
10 JUDGE JAMES LARSON. THESE SESSIONS WERE UNSUCCESSFUL.

11 THEY CONTINUED TO LITIGATE THE MATTER UNTIL
12 MID-AUGUST WHEN THEY PARTICIPATED IN FURTHER MEDIATION
13 SESSIONS PROVIDED OVER BY HONORABLE RAUL A. RAMIREZ. AT
14 THIS TIME THE PARTIES CONTINUED THEIR NEGOTIATIONS UNTIL
15 REACHING THE PRESENT AGREEMENT.

16 AFTER EVALUATING ALL THE RELEVANT FACTORS, THE
17 COURT IS INCLINED TO APPROVE THE SETTLEMENT. THE COURT IS
18 ALSO INCLINED TO FIND THAT THE AMOUNT OF SETTLEMENT FUND IS
19 OF SUBSTANTIAL VALUE TO THE SETTLEMENT CLASSES AND THAT THE
20 OVERALL SETTLEMENT IS THEREFORE FAIR, REASONABLE, AND
21 ADEQUATE.

22 THE COURT ALSO NOTES THAT NO OBJECTIONS WERE FILED
23 WITH RESPECT TO THE SETTLEMENT. THE ABSENCE OF ANY
24 OBJECTIONS TO THE SETTLEMENT FURTHER SUPPORTS FINAL
25 APPROVAL. ACCORDINGLY, I AM INCLINED TO APPROVE THE

1 SETTLEMENT.

2 WITH RESPECT TO TURNING TO CLASS COUNSEL'S REQUEST
3 FOR ATTORNEYS' FEES AND COSTS, THE COURT NOTES THAT CLASS
4 COUNSEL HAS REQUESTED FEES IN THE AMOUNT OF \$600,000, WHICH
5 IS 31.6 PERCENT OF THE TOTAL SETTLEMENT CONSIDERATION. THIS
6 REQUEST AMOUNT IS SLIGHTLY HIGHER THAN THE NINTH CIRCUIT
7 BENCHMARK OF 25 PERCENT. THE COURT IS INCLINED TO FIND A
8 CLASS COUNSELS' REQUEST FOR FEES AND COSTS IS FAIR AND
9 REASONABLE AND THE NINTH CIRCUIT AND DISTRICT COURT HAVE THE
10 DISCRETION TO AWARD FEES IN COMMON FUND CASES BASED ON
11 EITHER THE SO-CALLED LOW STAR MULTIPLYING METHOD OR THE
12 PERCENTAGE OF THE FUND METHOD.

13 THE NINTH CIRCUIT HAS EXPRESSLY APPROVED THE USE
14 OF THE PERCENTAGE METHOD IN COMMON FUND CASES.

15 THE COMMON FUND CREATED BY THE -- AND THAT IS A
16 PAUL JOHNSON CASE.

17 THE COMMON FUND CREATED BY THE SETTLEMENT IS
18 \$1,500,000. OF THIS \$600,000, IT IS STIPULATED, FOR
19 ATTORNEYS' FEES. CLASS COUNSEL ADVANCED \$18,939.34 IN
20 COSTS. THE BALANCE, \$581,060.76 CENTS IS FOR ATTORNEYS'
21 FEES.

22 THE REQUESTED AMOUNT OF \$600,000 REPRESENTS 31.6
23 PERCENT OF THE COMMON FUND OF \$1,900,000. THIS IS AN UPWARD
24 DEPARTURE FROM THE NINTH CIRCUIT'S 25 PERCENT BENCHMARK BUT
25 AN UPWARD DEPARTURE, I THINK, IT IS JUSTIFIED OF THE

1 CIRCUMSTANCES OF THE CASE.

2 GIVEN THE COURT'S EVALUATION OF THE RESULTS
3 OBTAINED IN THIS CASE, CLASS COUNSEL HAVE OBTAINED THE
4 FAITHFUL RESULT ON BEHALF OF OVER A THOUSAND FEMALE
5 DETAINEES AS WELL AS FUTURE DETAINEES.

6 THOSE CLASS MEMBERS THAT HAVE BEEN -- THAT HAVE
7 RESPONDED TO THE NOTICE WILL OBTAIN AT LEAST \$1,250. THOSE
8 CLASS MEMBERS THAT MEET VARIOUS AGGRAVATING CRITERIA OF THE
9 SETTLEMENT AGREEMENT MAKES THE AWARDS CLOSER TO \$30,000.
10 THE THREE NAMED PLAINTIFFS ARE ALSO TO BE AWARDED A TOTAL OF
11 \$120,000.

12 RISK FOR CLASS COUNSEL, COUNSEL PURSUED THIS CASE
13 IN THE ABSENCE OF CONTROLLING PRECEDENT AND WITHOUT ANY
14 CERTAINTY THAT THE FEDERAL AND STATE CONSTITUTIONAL CLAIMS
15 THEY RAISED WILL BE RESOLVED IN THEIR FAVOR. MOREOVER, THE
16 CLAIMS CERTIFICATION WAS OPPOSED BY THE DEFENDANTS AND THE
17 ISSUE REQUIRED EXTENSIVE BRIEFING FROM THE PARTIES.

18 ABSENT CLASS CERTIFICATION, THE POTENTIAL RECOVERY
19 WOULD HAVE BEEN LIMITED TO INDIVIDUAL PLAINTIFFS AND THUS
20 POTENTIAL COMPENSATION FOR THE ATTORNEYS RELATIVELY LIMITED.

21 NONMONETARY BENEFITS ACHIEVED IN THIS CASE, THE
22 EFFORTS OF CLASS COUNSEL GENERATED BENEFITS BEYOND THE CASH
23 SETTLEMENT AS THE DEFENDANTS HAVE REVISED THEIR STRIP SEARCH
24 POLICY, WHICH IS SIGNIFICANT.

25 MOREOVER, THE DEFENDANTS SET OUT THEIR NEW POLICY

1 LAID IN WRITING HELPING TO CLARIFY THE STANDARDS THAT THEY
2 WOULD EMPLOY IN THE FUTURE.

3 REASONABLE MARKET RATE, HERE CLASS COUNSEL AND THE
4 NAMED PLAINTIFFS AGREE ON A CONTINGENCY FEE OF 40 PERCENT OF
5 THE SETTLEMENT OR AWARD. THE REQUESTED ATTORNEYS' FEES
6 AMOUNT TO ALMOST TEN PERCENT LESS THAN THE AGREED-UPON
7 FIGURE.

8 IT IS TRUE THAT THE AGREEMENTS BETWEEN CLASS
9 COUNSEL AND THE NAMED PLAINTIFFS ARE ONLY SOMEWHAT PROBABLE
10 OF A REASONABLE WEIGHT FOR THE COURT GIVES ONLY MINIMAL
11 WEIGHT TO THE AGREEMENT ITSELF; NONETHELESS, CONTINGENCY FEE
12 ARRANGEMENTS OF ONE-THIRD ARE VERY COMMON AND, THEREFORE, AN
13 AWARD OF LESS THAN THAT MARKET RATE IS REASONABLE AND IS
14 FAVORABLE TO THE INTEGRAL CLASS MEMBERS.

15 REPRESENTATION OF THIS CLASS REQUIRED COUNSEL TO
16 FOREGO OTHER WORK, WHICH IS A RELEVANT FACTOR. COUNSEL FOR
17 THE CLASS HAVE EXPENDED 1,755 LITIGATING HOURS LITIGATING
18 AND NEGOTIATING ON BEHALF OF THE CLASS. THE EXPENDITURE OF
19 THESE HOURS, OF COURSE, REPRESENT AN OPPORTUNITY LOSS FOR
20 CLASS COUNSEL TO DIRECT THEIR EFFORTS ELSEWHERE.

21 IN ADDITION, THE COMPLAINT IN THIS ACTION WAS
22 FILED FEBRUARY 3, 2004. CLASS COUNSEL HAVE REPRESENTED THE
23 INTERESTS OF THE CLASS FOR NEARLY FOUR YEARS AND AGREED TO
24 REPRESENT THE NAMED PLAINTIFF ON A CONTINGENCY BASIS AND
25 THERE WAS NO GUARANTEE AT THE OUTSET THAT CLASS COUNSEL

1 WOULD BE COMPENSATED FOR THEIR EFFORTS. SO THE LOW START IS
2 A CROSSCHECK OF REASONABLENESS, I THINK, BASED ON THE
3 COURT'S EVALUATION AND THE CLIENTS, SHALL APPROVE THE
4 \$600,000 ATTORNEYS' FEES IS REASONABLE.

5 UM, WITH RESPECT TO THE PROPOSED ORDER THAT HAS
6 BEEN SUBMITTED, I'M INCLINED TO APPROVE THE PROPOSED ORDER
7 ONCE IT HAS BEEN MODIFIED TO REFLECT MY SPECIFIC RULINGS
8 TODAY AS APPROPRIATE.

9 I HAVE NOTED THAT THE PARTIES ARE REQUESTING THE
10 COURT RETAIN CONTINUED JURISDICTION OVER THE STIPULATION OF
11 CLASS ACTION SETTLEMENT.

12 TYPICALLY, WHEN THESE REQUESTS I MADE, I HAVE NO
13 OBJECTION TO RETAINING JURISDICTION IN THE FEDERAL COURT AS
14 LONG AS THE PARTIES CONSENT TO THE JURISDICTION OF A
15 MAGISTRATE IN -- IN THE CONTINUING JURISDICTION. OVER
16 THE -- WHAT IS BASICALLY -- A BREACH OF CONTRACT. SO, UM,
17 SO I WOULD LIKE YOU TO ADDRESS THAT POINT AS WELL.

18 SO NOW THAT I HAVE GIVEN YOU MY INCLINATION, DO
19 YOU HAVE ANY ADDITIONAL COMMENTS THAT YOU WOULD LIKE TO MAKE
20 BEFORE MY FINAL APPROVAL?

21 **MR. SCHWARTZ:** NO, YOUR HONOR.

22 **MR. MERIN:** NO, YOUR HONOR. EXCEPT TO SAY THANK
23 YOU FOR THE THOROUGHNESS WITH WHICH YOU ADDRESSED THE ISSUES
24 IN THIS LITIGATION.

25 **THE COURT:** OKAY. AND --

1 **MR. CASSIDY:** JUST A BRIEF MATTER, YOUR HONOR,
2 THAT, UM, ACTUALLY THE TOTAL NUMBER OF CLAIMS SUBMITTED WAS
3 272.

4 **THE COURT:** 272.

5 **MR. CASSIDY:** SO IT WAS A HIGHER NUMBER THAN
6 REFLECTED IN YOUR FINDINGS.

7 **THE COURT:** OKAY.

8 **MR. CASSIDY:** AND I THINK THAT ALSO SUPPORTS YOUR
9 FINDINGS EQUALLY, IF NOT MORE.

10 **THE COURT:** OKAY.

11 **MR. CASSIDY:** AND OTHER THAN THAT, JUST TO
12 CLARIFICATION IN TERMS OF THE ORDER, WOULD YOU LIKE US TO
13 GET A TRANSCRIPT AND INCORPORATE THAT IN BY REFERENCE, UM,
14 TO THE ORDER AND JUDGMENT OF DISMISSAL OR HOW WOULD YOU LIKE
15 US TO PREPARE THAT?

16 **THE COURT:** UM, YOU CAN -- YOU AREN'T TAKING NOTES
17 OR ANYTHING? WERE YOU FOLLOWING ALONG?

18 **MR. CASSIDY:** I FOLLOWED IT PRETTY CLOSELY AND I
19 THINK A LOT OF IT IS A SUMMATION OF THE VARIOUS MATERIALS
20 SUBMITTED.

21 **THE COURT:** RIGHT.

22 **MR. CASSIDY:** BUT IT WAS SO SUCCINCT AND WELL
23 STATED THAT I THOUGHT --

24 **THE COURT:** OKAY. THEN YOU CAN GET A COPY OF THE
25 TRANSCRIPT AND THEN JUST SUBMIT THAT IN. BUT WE'LL -- I'LL

1 APPROVE IT TODAY BUT WITHIN THE SAYING THAT BY, UM, --

2 MR. CASSIDY: SORRY.

3 THE COURT: -- A COUPLE WEEKS. SO IF WE SAY, UM,
4 BY THE TWENTY-SEVENTH OF NOVEMBER YOU'LL HAVE IT TO ME AND
5 SO YOU'LL TALK WITH THE COURT REPORTER AND YOU'LL GET THE --
6 SHE'LL GET THE TRANSCRIPT.

7 MR. CASSIDY: DO YOU WANT US TO DO IT IN THE FORM
8 OF AN AMENDED ORDER OR DO YOU JUST WANT IT US TO SUBMIT IT
9 AND INDICATE IN A SHORT ORDER THAT IT'S INCORPORATED BY
10 REFERENCE INTO THE ORDER AND JUDGMENT?

11 THE COURT: JUST, YOU KNOW, IT DOESN'T HAVE TO BE
12 CHARACTERIZED AS AN AMENDED ORDER. IT IS JUST A PROPOSED
13 ORDER BECAUSE WHAT YOU'RE GOING TO DO IS JUST MEMORIALIZE
14 WHAT I JUST SAID SO WE'LL HAVE THE DOCUMENT IN THE FILE IN
15 THE EVENT THAT -- THAT BECOMES NECESSARY DOWN THE ROAD. I
16 MEAN I DON'T ANTICIPATE THAT YOU ALL ARE GOING TO HAVE ANY
17 PROBLEMS.

18 MR. CASSIDY: RIGHT.

19 THE COURT: BUT AT LEAST IT WILL BE IN THE RECORD
20 AS TO THE BASIS UPON WHICH THE COURT RULED IN THE FUTURE.
21 AND THAT -- THAT LEADS ME TO THE SECOND POINT.

22 UM, I HAVE NO OBJECTION TO CONTINUING THE
23 JURISDICTION OF THE COURT TO, FOR THE FEDERAL, FOR THIS
24 ARENA, IN FEDERAL COURT TO PROCEED OVER WHAT MIGHT BE A
25 SETTLEMENT DISPUTE IF THE PARTIES ARE WILLING TO STIPULATE

1 TO MAGISTRATE FOR JURISDICTION.

2 MR. MERIN: THAT IS FINE.

3 THE COURT: BE SURE TO INCORPORATE THAT, YOU NEED
4 INCORPORATE THAT IN THE ORDER, TOO.

5 MR. CASSIDY: THAT'S FINE.

6 THE COURT: THE COURT WILL RETAIN JURISDICTION.
7 THAT THE PARTIES WILL STIPULATE IN THE EVENT THERE ARE
8 DISPUTES THEY CONSENT TO THE ASSIGNMENT OF THE MATTER FOR A
9 MAGISTRATE FOR RESOLUTION.

10 MR. CASSIDY: SO, AS I UNDERSTAND, WE'RE APPROVED
11 TODAY, SUBJECT TO THE FORMAL ORDER TO BE SUBMITTED WITH THE
12 TRANSCRIPT?

13 THE COURT: YEAH. WELL, APPROVED TODAY. AND LET
14 ME JUST MAKE THE FINDINGS.

15 BASED ON MY REVIEW OF PLAINTIFFS' MOTION AND
16 SUPPORTING PAPERS, AND BASED ON THE REASONING I PLACED ON
17 THE RECORD IN TODAY'S HEARING, THE COURT HEREBY MAKES THE
18 FOLLOWING FINDINGS: WITH RESPECT TO NOTICE, THE COURT
19 HEREBY FINDS AND CONCLUDES THAT PURSUANT TO, AND IN
20 COMPLIANCE WITH, RULE 23 OF THE FEDERAL RULE OF CIVIL
21 PROCEDURE, DUE AND ADEQUATE NOTICE WAS DIRECTED TO ALL
22 PERSONS AND ENTITIES WHO ARE MEMBERS OF CLASS ONE FEDERAL
23 CLAIMS AND CLASS TWO STATE CLAIMS AND WHO CAN BE IDENTIFIED
24 WITH REASONABLE EFFORT.

25 THE COURT FURTHER FINDS THAT THIS NOTICE IS

1 ADEQUATELY ADVISED THOSE PERSONS OF THE STIPULATION OF CLASS
2 ACTION SETTLEMENT AND OF THEIR RIGHT TO OBJECT THERETO.

3 THE COURT ALSO FINDS THAT A FULL AND FAIR
4 OPPORTUNITY WAS PROVIDED TO ANY SUCH PERSONS TO BE HEARD
5 WITH RESPECT TO THE SETTLEMENT AND THAT AT NO TIME THE
6 OBJECTION TO THE SETTLEMENT WERE FILED.

7 THE COURT FURTHER FINDS AND CONCLUDES THAT A
8 STIPULATION OF CLASS ACTION SETTLEMENT IS FAIR, REASONABLE
9 AND HAD ADEQUATE. THEREFORE, THE COURT HEREBY GRANTS FINAL
10 APPROVAL OF THE SETTLEMENT.

11 ADDITIONALLY, THE COURT HEREBY AWARDS CLASS
12 COUNSEL MARK E. MERIN AND CASPER, MEADOWS, MARK E. MERIN AND
13 CASPER, MEADOWS, SCHWARTZ & COOK, ATTORNEYS' FEES IN THE
14 AMOUNT OF \$600,000.

15 FURTHER, THE COURT HEREBY AWARDS THE CLASS
16 REPRESENTATIVES ROBIN TUCKER THE AMOUNT OF \$120,000 AS
17 COMPENSATION FOR SERVICES RENDERED AS CLASS REPRESENTATIVES.

18 THIS IS PROBABLY THE CLASS REPRESENTATIVES.

19 **MR. MERIN:** YES, YOUR HONOR, YES, IT'S MS.
20 GALLAGHER, ROBERTA BAUCCIO AND GRACE CARLAND.

21 **THE COURT:** THAT'S RIGHT. AND I'M SORRY.

22 OKAY. ONE HUNDRED TWENTY THOUSAND DOLLARS IS
23 COMPENSATION FOR SERVICES RENDERED AS CLASS REPRESENTATIVES.

24 ALL RIGHT. OKAY.

25 **MR. MERIN:** EXCUSE ME.

1 **THE COURT:** IT'S SHANNON GALLAGHER, ROBERTA
2 BAUCCIO AND GRACE CARLAND?

3 **MR. MERIN:** THAT'S CORRECT, YOUR HONOR.

4 **THE COURT:** OKAY.

5 AND, FINALLY, THE COURT APPROVES THE AWARD OF FEES
6 IN THE AMOUNT OF \$150,000 TO GILARDI & COMPANY, LLC, FOR
7 SERVICES RENDERED AS A CLAIMS ADMINISTRATOR.

8 OKAY. AND SO THE PROPOSED ORDER, IF YOU SUBMIT
9 THE PROPOSED ORDER TODAY -- ACTUALLY, TODAY IS THE SIXTH.
10 SO THAT SHOULD BE ENOUGH TIME FOR YOU TO GET THE TRANSCRIPT
11 AND THEN GET IT. OKAY. SO IF YOU CAN SUBMIT IT BY THE
12 TWENTY-SEVENTH OF NOVEMBER.

13 **MR. CASSIDY:** THAT'S FINE.

14 **THE COURT:** THAT WILL BE FINE. AND, UM, THE ORDER
15 IS EFFECTIVE IMMEDIATELY.

16 **MR. CASSIDY:** OKAY.

17 **THE COURT:** OKAY.

18 **MR. MERIN:** THANK YOU VERY MUCH, YOUR HONOR.

19 **MR. SCHWARTZ:** THANK YOU.

20 **THE COURT:** THANK YOU. THANK YOU FOR YOUR WORK.

21 **MR. MERIN:** THANK YOU, JUDGE.

22 **THE COURT':** UH-HUH.

23 (WHEREUPON AT 1:27 P.M. THE PROCEEDINGS CONCLUDED.)

24 COURT REPORTER'S CERTIFICATE

25 I, STARR A. WILSON, CSR NO. 2462, UNITED STATES

1 DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, DO HEREBY
2 CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE
3 RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

4 I CERTIFY THAT THE TRANSCRIPT FEES AND FORMAT
5 COMPLY WITH THOSE PRESCRIBED BY THE COURT AND JUDICIAL
6 CONFERENCE OF THE UNITED STATES.

7 
8

9 STARR A. WILSON, CSR NO. 2462
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25